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37509

7590

04/23/2009

DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

EXAMINER

HAYAN, THU THAO

ART UNIT

PAPER NUMBER

3695

DATE MAILED: 04/23/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,903	12/20/2001	Nam Dinh Pham	367213-001	3219
TITLE OF INVENTION: FINANCIAL EXCHANGE SYSTEM AND METHOD				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	07/23/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

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375/9 75/90 04/23/2009
 DECHERT LLP
 P.O. BOX 390460
 MOUNTAIN VIEW, CA 94039-0460

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/027.903 12/20/2001

Nam Dinh Pham

367213-001

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TITLE OF INVENTION: FINANCIAL EXCHANGE SYSTEM AND METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	07/23/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
HAVAN, THU THAO	3695	705-037000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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DECHERT LLP P.O. BOX 390460 MOUNTAIN VIEW, CA 94039-0460			HAVAN, THU THAO	
			ART UNIT	PAPER NUMBER

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DATE MAILED: 04/23/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1288 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1288 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/027,903

Examiner

THU-THAO HAVAN

Applicant(s)

PHAM, NAM DINH

Art Unit

3695

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/15/08.
2. ☒ The allowed claim(s) is/are 1-40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Detailed Action

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Anthony Diepenbrock on February 27, 2009.

The application has been amended as follows:

1. (Currently Amended) A computerized method of administering an investment contract between pairs of investors, comprising:

associating a contract with a first investor, wherein the contract is based on at least one underlying commodity having a market value, said market value being obtained electronically from a computing system of a dataprovider, wherein the first investor does not hold the underlying commodity or agree to buy or sell the underlying commodity and wherein the first investor deposits funds in an account in an amount equal to a maximum potential loss to the first investor;

matching by an exchange computer system the contract with a second investor [thereby creating] to create an active contract, wherein the second investor does not hold the underlying commodity or agree to buy or sell the underlying commodity, and wherein the second investor deposits funds in an account in an amount equal to a maximum potential loss to the second investor;

at least temporarily freezing the first investor funds and the second investor funds associated with the contract;

determining whether one of the first and second investor is to receive a payment based on the market value of the underlying commodity upon expiration of the contract in relation to one of a target price and a target price range; and

paying the frozen first and second investor funds to one of the first and second investor upon expiration of the contract if either the first or second investor is to receive a payment, otherwise, returning to each investor his deposited funds[;], wherein expiration of the contract is based on at least one of a deviation from a target price range and a specified maturity date.

2. (Currently Amended) The method of claim 1,

wherein a price movement has a direction defined by comparing the target price to the market value of the underlying commodity upon expiration of the contract,

wherein the contract specifies an expiration date, a first and second expected direction associated with the first and second investor and a fixed lump-sum payment, the specified expiration date, first and second expected directions and fixed lump-sum payment being set by the first and second investors, and

wherein the payment is selectively transferred to one of the first and second investor upon expiration of the contract based on the direction of the price movement of the commodity in relation to the first and second expected direction.

3. (Currently Amended) The method of claim 1,

wherein a price movement has a number of ticks and direction defined by comparing the target price to the market value of the underlying commodity upon expiration of the contract, wherein the contract specifies an expiration time, a first expected direction and first dollars per tick associated with the first investor, and second expected direction and second dollars per tick associated with the second investor, the specified expiration time, first and second expected directions, and the first and second dollars per tick being set by the first and second investors, and

wherein the payment is calculated and transferred to one of the first and second investor upon expiration of the contract based on the direction of the price movement, the number of ticks and the first and second dollars per tick.

4. (Currently Amended) The method of claim 3,

wherein the contract further specifies a cap, and
wherein the payment transferred to one of the first and second investor is limited by the cap.

5. (Currently Amended) The method of claim 1_a

wherein the commodity has a market value at expiration of the contract, and
wherein the contract specifies an expiration date, a first target price range associated with the first investor, a second target price range associated with the second investor and a fixed lump-sum payment, the specified expiration date, first target price range, second target price range, and fixed lump-sum payment being set by the first and second investors, and

wherein the fixed lump-sum payment is transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the first and second price ranges.

6. (Currently Amended) The method of claim 5_a wherein the fixed lump-sum payment is transferred to the first investor if the market value of the commodity upon expiration of the contract falls within the first target price range.

7. (Currently Amended) The method of claim 5_a wherein the fixed lump-sum payment is transferred to the second investor if the market value of the commodity upon expiration of the contract falls within the second target price range.

8. (Currently Amended) The method of claim 1_a

wherein the commodity has a market value upon expiration of the contract,
wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor and fixed lump-sum payment, the expiration date, bounded price range, and fixed lump-sum payment being set by the first and second investors, and

wherein the fixed lump-sum payment is transferred to one of the first and second investor based on one of the market value of the commodity upon expiration of the contract in relation to the price range.

9. (Currently Amended) The method of claim 8, wherein the fixed lump-sum payment is transferred to the first investor if the market value of the commodity reaches the upper cap prior to the expiration date.

10. (Currently Amended) The method of claim 8, wherein the fixed lump-sum payment is transferred to the second investor if the market value of the commodity reaches the lower cap prior to the expiration date.

11. (Currently Amended) The method of claim 8, wherein the fixed lump-sum payment is transferred to the first investor on the expiration date if the market value of the commodity on the expiration date falls within a portion of the price range associated with the first investor.

12. (Currently Amended) The method of claim 8, wherein the fixed lump-sum payment is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a portion of the price range associated with the second investor.

13. (Currently Amended) The method of claim 1,

wherein the commodity has a market value at expiration of the contract, and
wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor, a target price and dollars-per-tick, the expiration date, the bounded price range, target price, and dollars-per-tick being set by the first and second investors, and

wherein a payment is calculated and transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the price range.

14. (Currently Amended) The method of claim 13, wherein the payment transferred to one of the first and second investor is limited by one of the first and second cap.

15. (Currently Amended) The method of claim 14, wherein the payment is transferred to the first investor if the market value of the commodity reaches the first cap prior to the expiration date.

16. (Currently Amended) The method of claim 14, wherein the payment is transferred to the second investor if the market value of the commodity reaches the second cap prior to the expiration date.

17. (Currently Amended) The method of claim 13, wherein the payment is transferred to the first investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associated with the first investor.

18. (Currently Amended) The method of claim 17, wherein the payment is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick.

19. (Currently Amended) The method of claim 13, wherein the payment is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associates with the second investor.

20. (Currently Amended) The method of claim 19, wherein the payment is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick.

21. (Currently Amended) A system for creating an electronic exchange for trading in and administering investment contracts between pairs of investors, comprising: an exchange computer system [operable to] that performs the steps of:

(i) associat[e]ing a contract with a first investor, wherein the contract is based on at least one underlying commodity having a market value, said market value being obtained from a computing system of a dataprovider, wherein the first investor does not hold the underlying commodity or agree to buy or sell the underlying commodity, and wherein the first investor deposits funds in an account in an amount equal to a maximum potential loss to the first investor;

(ii) match[ing] the contract with a second investor thereby creating an active contract, wherein the second investor does not hold the underlying commodity or agree to buy or sell the underlying commodity, and wherein the second investor deposits funds in an account in an amount equal to a maximum potential loss to the second investor;

(iii) at least temporarily freez[e]ing the first investor funds and the second investor funds associated with the contract;

(iv) determin[e]ing whether one of the first and second investor is to receive a payment based on the market value of the underlying commodity upon expiration of the contract in relation to one of a target price and a target price range; and

(v) pay[ing] the frozen first and second investor funds, to one of the first and second investor upon expiration of the contract if either the first or second investor is to receive a payment, otherwise, returning to each investor his deposited funds, wherein expiration of the contract is based on at least one of a deviation from a target price range and a time horizon.

22. (Currently Amended) The system of claim 21,

wherein a price movement has a direction defined by comparing the target price-to-the market value of the underlying commodity upon expiration of the contract, wherein the contract specifies an expiration date, a first and second expected direction

associated with the first and second investor and a fixed lump-sum payment, the specified expiration date, first and second expected directions and fixed lump-sum payment being set by the first and second investors, and

wherein the payment is selectively transferred to one of the first and second investor upon expiration of the contract based on the direction of the price movement of the commodity in relation to the first and second expected direction.

23. (Currently Amended) The system of claim 21,

wherein a price movement has a number of ticks and direction defined by comparing the target price to the market value of the underlying commodity upon expiration of the contract,

wherein the contract specifies an expiration time, a first and second expected direction associated with the first and second investor and dollars per tick, the specified expiration time, first and second expected directions, and the dollars per tick being set by the first and second investors, and

wherein the payment is calculated and transferred to one of the first and second investor upon expiration of the contract based on the direction of the price movement, the number of ticks and the dollars per tick.

24. (Currently Amended) The system of claim 23, wherein the contract further specifies a cap, and wherein the payment transferred to one if the first and second investor is limited by the cap.

25. (Currently Amended) The system of claim 21,

wherein the commodity has a market value at expiration of the contract, and

wherein the contract specifies an expiration date, a first target price range associated with the first investor, a second target price range associated with the second investor and a fixed lump-sum payment, the specified expiration date, first target price range, second target price range, and fixed lump-sum payment being set by the first and second investors, and

wherein the fixed lump-sum payment is transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the first and second price ranges.

26. (Currently Amended) The system of claim 25_a wherein the fixed lump-sum payment is transferred to the first investor if the market value of the commodity upon expiration of the contract falls within the first target price range.

27. (Currently Amended) The system of claim 25_a wherein the fixed lump-sum payment is transferred to the second investor if the market value of the commodity upon expiration of the contract falls within the second target price range.

28. (Currently Amended) The system of claim 21_a

wherein the commodity has a market value upon expiration of the contract, wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor and -fixed lump-sum payment, the expiration date, bounded price range, and fixed lump-sum payment being set by the first and second investors, and

wherein the fixed lump-sum payment is transferred to one of the first and second investor based on one of the market value of the commodity upon expiration of the contract in relation to the price range.

29. (Currently Amended) The system of claim 28_a wherein the fixed lump-sum payment is transferred to the first investor if the market value of the commodity reaches the upper cap prior to the expiration date.

30. (Currently Amended) The system of claim 28_a wherein the fixed lump-sum payment is transferred to the second investor if the market value of the commodity reaches the lower cap prior to the expiration date.

31. (Currently Amended) The system of claim 28, wherein the fixed lump-sum payment is transferred to the first investor on the expiration date if the market value of the commodity on the expiration date falls within a portion of the price range associated with the first investor.

32. (Currently Amended) The system of claim 28, wherein the fixed lump-sum payment is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a portion of the price range associated with the second investor.

33. (Currently Amended) The system of claim 21, wherein the commodity has a market value at expiration of the contract, and wherein the contract specifies an expiration date, a price range bounded by an upper cap associated with the first investor and a lower cap associated with the second investor, a target price and dollars-per-tick, the expiration date, the bounded price range, target price, and dollars-per-tick being set by the first and second investors, and wherein a payment is calculated and transferred to one of the first and second investor upon expiration of the contract based on the market value of the commodity upon expiration of the contract in relation to the price range.

34. (Currently Amended) The system of claim 33, wherein the payment transferred to one of the first and second investor is limited by one of the first and second cap.

35. (Currently Amended) The system of claim 34, wherein the payment is transferred to the first investor if the market value of the commodity reaches the first cap prior to the expiration date.

36. (Currently Amended) The system of claim 34, wherein the payment is transferred to the second investor if the market value of the commodity reaches the second cap prior to the expiration date.

37. (Currently Amended) The system of claim 33, wherein the payment is transferred to the first investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associated with the first investor.

38. (Currently Amended) The system of claim 37, wherein the payment is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick.

39. (Currently Amended) The system of claim 33, wherein the payment is transferred to the second investor on the expiration date if the market value of the commodity on the expiration date falls within a price range associated with the second investor.

40. (Currently Amended) The system of claim 39, wherein the payment is calculated based on the difference between the market value of the commodity upon expiration of the contract and the target price multiplied by the dollars-per-tick.

Allowable Subject Matter

Claims 1-40 are allowed.

The following is an examiner's statement of reasons for allowance: The present invention generally discloses financial exchange system and method that allows individuals to interact directly with each other to take a position on an underlying commodity's price movements without holding the underlying commodity. The prior arts of record include the teaching of Rossides (US 5,749,785) and Lange (US 6,321,212). Rossides teaches a place bet mode enabling a first user to place a bet into the database, and an accept a bet mode to enable a second user to accept the bet. On the

other hand, Lange teaches trading and investing in groups of demand-based adjustable-return contingent claims, and for establishing markets and exchanges for such claims. However, the prior arts of record fail to teach, singly or in combination, paying the frozen first and second investor funds to one of the first and second investor upon expiration of the contract if either the first or second investor is to receive a payment, otherwise, returning to each investor his deposited funds wherein expiration of the contract is based on at least one of a deviation from a target price range and a specified maturity date..

The examiner agrees with the applicants' arguments presented in the remarks of August 15, 2008 and has withdrawn the rejection under 35 USC 103 over Rossides (US 5,749,785) in view of Lange (US 6,321,212). The prior arts of records taken singly or in combination fail to teach or fairly suggest the claimed invention. Therefore, the examiner favors the allowance of claims 1-40.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday from 6am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571) 272-6746. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Thu Thao Havan/
Primary Examiner
Art Unit 3695

Application Number**Application/Control No.**

10/027,903

**Applicant(s)/Patent under
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Art Unit

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